

II. Remarks

Applicant understands that this case is on FINAL rejection and that the Examiner has the discretion to either allow or deny entry of this amendment. When the Examiner has had a chance to review the newly amended independent claims, Applicant believes that he will agree that this application is now in condition for allowance. Independent claims 1, 5, 6 and 7 have each been amended in the same fashion to clarify that the carriage is slidably attached to the “outside” of the elongated body. Thus, carriage is not telescopically attached to the elongated body. And, the movement of the carriage from the rear of the elongated body “necessarily causes the container or other structure attached to the engaging means to be loaded onto the elongated body.” Support for these clarifying additions is found in the original specification at pages 7 & 8. New claim 8 has been added that specifies that the carriage contains “a friction reducing mechanism.” Support for new claim 8 is found on page 6. As such, no new matter has been added. In light of these proposed newly amended claims, Applicant respectfully requests entry of same in order to moot the outstanding rejections and allow a Notice of Allowance to be issued.

Caims 1, 3& 7 were rejected under U.S.C. § 102(b) as being anticipated by the Galbreath reference. Applicant respectfully disagrees that Galbreath teaches each and every element of Applicant’s claimed invention either before or after the above-requested amendment. Galbreath is directed to a vehicle mounted roll-off hoist that includes an “extendable and retractable stop carriage.” (see Abstract). That “stop carriage” however is “slidably mounted to the forward end portion of the hoist frame.” (col. 1, lines 47-49 – emphasis added). There is absolutely no teaching in Galbreath that the “stop carriage” can be located anywhere but the “forward end” of the hoist frame. Likewise, there is absolutely no teaching that the “stop carriage” can travel the

length of the hoist frame as the carriage in Applicant's invention must. Indeed, as the name implies, it is impossible for the "stop carriage" of Galbreath to do so because it is "telescopically connected to and slidably received within" the two "hollow" beams of the hoist frame 20. (col. 4, lines 2-3; col.3, line 12). In other words it must "stop" when it is fully retracted inside the hollow beams. And, because it is "telescopically" positioned within the beams it can only move from "the forward end portion of the hoist frame" to a more forward position. This configuration makes it impossible to travel towards the "rear" of the trailer. Likewise, it clearly cannot travel "from the rear to the front of the elongated body" as required by the claims of Applicant's invention. Moreover, because it is "telescopically" positioned "within" the beams of the hoist frame it cannot be "slidably attached to the outside of the elongated body" also as required by each of Applicant's amended independent claims. Finally, there is absolutely no teaching in Galbreath about the use of "a friction reducing mechanism," which is now a requirement of newly added claim 8.

Yet another important distinction is that the "stop carriage" of Galbreath does not, and cannot, move during the loading of a container. Indeed, Galbreath is specific about this; "stop carriage 75 . . . cannot be extended unless the hoist is in a completely lowered position." (col. 6, lines 6-7 – emphasis added). Since a container cannot be loaded on the Galbreath hoist unless the hoist frame is "inclined" (col. 3, line 56), then necessarily the "stop carriage" must be in a fixed or stationary during loading, i.e. it must be stopped as its name implies. Therefore, loading of the container must be performed without movement of the "stop carriage." This is exactly opposite of what is required by Applicant's claimed invention which requires that the "extension of the central cylinder causes movement of the carriage to the front

and necessarily causes the container or other structure attached to the engaging means to be loaded onto the elongated body.”

(Applicant’s amended claims 1 & 5-7 and new claim 8). In fact, the “stop carriage” of Galbreath has nothing to do with the loading of a container, it is “cable winch 50” that is used to load a container. (col. 3, line 29). “Cable winch 50” comprises cylinders 55 and 56, not cylinder 82 that is part of the “stop carriage.” (col. 3, lines 36 -50). These cylinders do not push, slide or move the “stop carriage” during loading. Instead, they drive the cable that moves about sheave 67 that must be stationary because it is connected to the “stop carriage.” Again, this is completely opposite of Applicant’s invention which requires that the “cable sheave” must move with the carriage. (see claims 3, 5-7). The small cylinder associated with the “stop carriage,” cylinder 82, has nothing to do with the loading of a container. It is used to adjust the positioning of the “stop carriage” only when the hoist is in “a completely lowered position.”

Applicant’s invention requires a carriage that travels on the outside of the elongated body and must necessarily move from the rear of the elongated body to the front of the elongated body when a container is loaded. This is so because the central cylinder attached to the carriage is the drive means for loading and unloading a container. Galbreath teaches away from Applicant’s invention in that the “stop carriage” cannot move during loading. For these reasons Applicant submits that Galbreath does not teach each and every element of the amended independent claims and, as such, Applicant respectfully requests that this rejection be withdrawn.

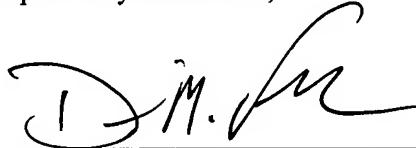
The Examiner has also rejected claim 2 as obvious under 35 U.S.C. § 103(a) over Galbreath in view of Raisio. For the reasons set forth above Applicant submits that a *prima facie* case of obviousness cannot be maintained because the primary reference Galbreath does not

disclose each and every element of claims 1 & 5-7. Moreover, Applicant contends that the lift hook mechanism of Raisio could not be connected to the "stop carriage" of Galbreath because the hook design of Raisio requires that it be 1) stationary and pivotally connected to the frame and 2) positioned in the center of the frame so the hook can reach over the rear of the hoist frame. If the hook mechanism was combined with the 'stop carriage' of Galbreath at the "forward end" of the hoist frame it could not reach over the rear end of the frame. Accordingly, Applicant requests that this rejection also be withdrawn.

Applicant believes pending claims 1-7 are now in a condition for allowance and respectfully request an early indication of same. If for any reason the application is not in condition for allowance and a telephonic conference would be helpful, please do not hesitate to contact the undersigned directly at 312/913-2143.

Respectfully submitted,

Date: 9/26/05

By: 

David M. Frischkorn
Reg. No. 32,833